

PSJ10 Exh 53

THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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IN RE: NATIONAL : HON. DAN A.
PRESCRIPTION OPIATE : POLSTER
LITIGATION :
:
APPLIES TO ALL CASES : NO.
: 1:17-MD-2804
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- HIGHLY CONFIDENTIAL -

SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

- - -

January 9, 2019

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Videotaped deposition of
JINPING McCORMICK, taken pursuant to
notice, was held at the offices of
Kessler Topaz Meltzer & Check, 280 King
of Prussia Road, Radnor, Pennsylvania,
beginning at 9:13 a.m., on the above
date, before Michelle L. Gray, a
Registered Professional Reporter,
Certified Shorthand Reporter, Certified
Realtime Reporter, and Notary Public.

- - -

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ALSO PRESENT:

21

VIDEO TECHNICIAN:

22 Dan Lawlor

23 LITIGATION TECHNICIAN

Zach Hone

24

1 Q. Like a chargeback?

2 A. No.

3 Q. Something different?

4 A. It's, just from logistic
5 point of view, you could also give
6 them -- just give them credit, for
7 example.

8 Q. And what would that be
9 called if it was given as credit? Is it
10 called a coupon or a rebate or a
11 chargeback, or what it's called?

12 A. It wouldn't be called a
13 coupon. It wouldn't be called a
14 chargeback. It would either be off
15 invoice or a credit.

16 Q. Okay. And do you see a
17 little further down, there's an e-mail
18 from Ara to you and Mike Perfetto and it
19 says, "Think we are on the same page.
20 Like the limited focus of calls to only
21 those stores that have purchased brand in
22 the past nine months (or do we refine to
23 six months?) Let's ratchet it down with
24 what we pay them to make the calls and

1 potentially give them an opportunity to
2 earn five times or six times the number
3 (25K to 30K) based on providing proof of
4 store stocking in a period of 30 days.
5 With the 25K to 30K, we should get some
6 to the retailer to incentivize them to
7 order and fast."

8 Do you see that?

9 A. Yes.

10 Q. Okay. Is this -- first of
11 all, what is the -- what are the calls
12 that he's talking about, "We pay them to
13 make the calls"?

14 A. So McKesson, that was --
15 what's Ara is referring to is to have
16 McKesson call the pharmacies to stock the
17 product to get it started, because the
18 brand had initially discontinued the
19 product and the pharmacies may not be
20 aware that a generic product equivalent
21 to the brand Opana is avail -- was
22 available at that time.

23 Q. So you're paying McKesson to
24 call the pharmacies regarding the

1 product; is that right?

2 MR. BAILEY: Object to form.

3 THE WITNESS: It's for the
4 stocking the store.

5 BY MS. BAIG:

6 Q. And it says here, "And
7 potentially give them an opportunity to
8 earn five times or six times the number."
9 What does that mean? Who's earning five
10 times or six times the number?

11 A. I wouldn't know what he
12 meant. I would think it's McKesson.

13 Q. So McKesson has the
14 opportunity to earn money if they make
15 these calls?

16 MR. BAILEY: Object to form.

17 BY MS. BAIG:

18 Q. Is that how you read this?

19 A. Yes, because for them to
20 sell more product and they have
21 opportunity to make more profit. I mean,
22 that's their business model. They're
23 distributors. They're in the --
24 wholesaler/distributor.

1 Q. And they would then have
2 that opportunity to make more profit
3 based on providing proof of store
4 stocking. Who do they have to provide
5 proof of store stocking to? To you?

6 A. To us, to get the -- say,
7 the \$25 credit.

8 Q. I see. "With the 25 to
9 30,000 we should get some of the retailer
10 to incentivize them to order and fast."

11 So the purpose behind this
12 was to drive sales by incentivizing the
13 retailers to order fast; is that right?

14 MR. MAIER: Object to form.

15 MS. VENTURA: Objection to
16 form.

17 THE WITNESS: So oxymorphone
18 is a very low volume product, and
19 the brand discontinued.

20 Actavis was the first
21 generic to launch this product.
22 Therefore, the retailer, meaning
23 the pharmacies, did not know we
24 actually had this generic

1 Q. Next page.

2 A. Oh, I see. Yes, I saw that.

3 Mm-hmm.

4 Q. Okay. And do you see he
5 goes on to state, "I understand that you
6 are looking to target this to the
7 approximately 500 accounts with
8 significant brand purchase history and
9 have accounted for that in the proposal.
10 Please note, however, that many of our
11 communications vehicles can reach a
12 larger population at no additional
13 charge."

14 Do you see that?

15 A. Yes, I saw that.

16 Q. Do you know what
17 communications vehicles he's talking
18 about?

19 MS. GERMANO: Objection.

20 THE WITNESS: I would think
21 that's referring to the phone, the
22 fax, and the store -- and the
23 mailer.

24 BY MS. BAIG:

1 Q. Okay. And on the next page,
2 do you see an e-mail from Ara Aprahamian?

3 A. Okay.

4 Q. What was his position again?

5 A. Ara?

6 Q. Mm-hmm.

7 A. He was the director of
8 pricing and contract.

9 Q. And do you see that he's
10 reached -- he's reaching out to Amber
11 Kehoe at McKesson stating, "As you know,
12 we have recently launched oxymorphone ER
13 7.5 milligrams and 15 milligrams,
14 (attached launch notice), and need your
15 assistance with the following: One, run
16 a query of brand Opana ER 7.5 milligrams
17 and 15-milligram sales within McKesson
18 for the past nine months to identify high
19 purchasing pharmacies."

20 Do you see that?

21 A. Yes.

22 Q. So you're relying on
23 McKesson to identify the high purchasing
24 pharmacies that you can then target for

1 generics marketing; is that right?

2 MR. BAILEY: Objection to
3 form.

4 MR. MAIER: Objection to
5 form.

6 THE WITNESS: We're relying
7 on them to know these pharmacies.

8 BY MS. BAIG:

9 Q. That you can then have them
10 contact about generic oxymorphone,
11 correct?

12 A. Yes. Awareness. As you see
13 John wrote back saying to promote
14 awareness of the recently launched
15 oxymorphone ER tablets.

16 Q. And he goes on to state --
17 Ara goes on to state, "Coordinate a
18 stocking promotion/offer to those target
19 stores."

20 Do you see that?

21 A. Yes.

22 Q. Are there other types of
23 stocking promotion offers that you can
24 recall being used to promote generic

1 opioids?

2 MR. MAIER: Objection to
3 form.

4 THE WITNESS: See,
5 oxymorphone was a special case,
6 because the brand discontinued and
7 it was a very small volume
8 product.

9 BY MS. BAIG:

10 Q. My question to you is, are
11 there other types of stocking promotion
12 offers that you can recall being used to
13 promote generic opioids?

14 MR. MAIER: Object to form.

15 THE WITNESS: I do not
16 remember at this time.

17 BY MS. BAIG:

18 Q. Okay. And then he goes on
19 to state, "Item 3, ship product to those
20 target stores, based on receiving
21 pharmacy order inhouse." And then he
22 goes on to state, "We are promoting
23 awareness direct to physicians on the
24 availability of Actavis generic

1 Q. Did you have a general
2 understanding that sales were increasing
3 in a significant amount at that time?

4 MR. MAIER: Objection to
5 form.

6 THE WITNESS: It should be,
7 because July was launching. When
8 you launch, this is four-month,
9 six-month after launch, it should
10 be increasing.

11 BY MS. BAIG:

12 Q. Okay. And you see a little
13 bit further down, it states that "the
14 marketing group is once again utilizing
15 the Kadian sales force to promote
16 oxymorphone to pain doctors, as well as
17 running both direct mail and e-mail
18 promotional programs in January and
19 February."

20 Do you see that?

21 A. Yes.

22 Q. And he states, "Our goal is
23 to continue the growth trend through
24 2012."

1 Do you see that?

2 A. Yes.

3 Q. And was it your
4 understanding that the marketing group
5 was utilizing the Kadian sales force to
6 promote oxymorphone to pain doctors?

7 MR. MAIER: Objection to
8 form.

9 THE WITNESS: Yes. I was
10 aware to promote. I think we want
11 to clarify that promote, really
12 just to make it aware of the
13 availability of this product, as
14 those marketing material we had
15 reviewed earlier.

16 BY MS. BAIG:

17 Q. And that -- and you are also
18 running both direct mail and e-mail
19 promotional programs, correct?

20 A. Yes. So all of these
21 programs were just awareness program. It
22 wasn't promoting the product on any of
23 the benefits or anything.

24 Q. Did you have an

1 understanding of the addictive qualities
2 of the product at the time?

3 MR. MAIER: Objection to
4 form.

5 THE WITNESS: So product
6 being Schedule II has addictive
7 potential.

8 BY MS. BAIG:

9 Q. And do you know whether the
10 Kadian sales force was promoting the
11 awareness of the addictive qualities of
12 oxymorphone to pain doctors?

13 MR. MAIER: Object to form
14 and foundation.

15 MS. VENTURA: Join in the
16 objection.

17 THE WITNESS: What we asked
18 Kadian sales force was just
19 awareness campaign to the doctors,
20 so they are aware, so they -- the
21 doctors were aware of the ability
22 of the generic because the --
23 because Opana ER was discontinued.

24 BY MS. BAIG:

1 Q. Do you remember -- do you
2 know why Opana ER was discontinued?

3 A. I do not remember why it was
4 discontinued. At that time, what we knew
5 is was not because of safety reason.

6 Q. You never heard that Opana
7 ER was discontinued because of safety
8 reasons?

9 A. It was not -- it was not
10 because of safety reasons.

11 Q. You know that?

12 A. That's how we understood at
13 the time.

14 Q. Have you come to a different
15 understanding since then?

16 MR. MAIER: Objection to
17 form.

18 MS. VENTURA: Objection to
19 form.

20 THE WITNESS: I have not --
21 I have not worked with this
22 product since I left Actavis.

23 BY MS. BAIG:

24 Q. Okay. But you still work

1 A. No, I did not.

2 Q. Did you have any interaction
3 with any of the following organizations,
4 the American Pain Society?

5 A. No, I did not.

6 Q. The HDA Research Foundation?

7 A. No, I did not.

8 Q. Center For Healthcare Supply
9 Chain Research?

10 A. No.

11 Q. National Wholesale Druggists
12 Association?

13 A. National Wholesale Drug
14 Association, is that the HDA?

15 Q. The National Wholesale
16 Druggist Association. So I think it's --
17 I don't know if it's the same.

18 A. Well --

19 Q. You've had a -- you've had
20 interaction with HDA, is that what you're
21 saying?

22 A. HDMA, yeah.

23 Q. HDMA.

24 How about the American Pain

1 Foundation?

2 A. I did not.

3 Q. American Academy of Pain
4 Medicine?

5 A. No, I did not.

6 Q. U.S. Pain Foundation?

7 A. No.

8 Q. And what was the extent of
9 your involvement with the HDMA?

10 A. I attended sometimes the
11 HDMA's annual conference.

12 Q. Did you ever work with key
13 opinion leaders?

14 A. No, I did not.

15 Q. Who worked with the key
16 opinion leaders at Actavis?

17 MR. KNAPP: Foundation.

18 MS. VENTURA: Objection to
19 form.

20 THE WITNESS: I don't know.

21 BY MS. BAIG:

22 Q. You never heard of Actavis
23 working with key opinion leaders before?

24 A. I think brand company

1 typically work with key opinion leaders,
2 but I don't know any specifics about
3 Actavis' involvement with the key opinion
4 leaders.

5 Q. Okay. Do you know who any
6 of the key opinion leaders were with
7 respect to opioids?

8 A. No, I do not.

9 Q. Okay.

10 MS. BAIG: I don't have any
11 further questions. Thank you.

12 THE WITNESS: Thank you.

13 MR. MAIER: We'll take a
14 couple minutes and come back.
15 We'll very, very quick.

16 THE VIDEOGRAPHER: Going off
17 the record. The time is 5:02.

18 (Short break.)

19 THE VIDEOGRAPHER: We are
20 going back on record. Beginning
21 of Media File 10. The time is
22 5:12.

23 - - -

24 EXAMINATION